



February 23, 1999

HOUSE BILL No. 1489

DIGEST OF HB 1489 (Updated February 17, 1999 8:20 pm - DI 02)

Citations Affected: IC 14-8; IC 14-22.

Synopsis: Hunting while intoxicated. Provides that a person who hunts with a firearm or bow on property where the person may not hunt without a license and who has a blood or breath alcohol count of at least 0.10% or is intoxicated commits a Class C misdemeanor. Increases the offense to: (1) a Class B misdemeanor if the person has a previous conviction for hunting while intoxicated; or (2) a Class A misdemeanor if the offense results in the death of another person. Permits a court to order a person convicted of hunting while intoxicated not to hunt for one year. Provides that a person who hunts after being ordered not to hunt commits a Class A misdemeanor.

Effective: July 1, 1999.

Pond, Lytle

January 19, 1999, read first time and referred to Committee on Agriculture, Natural Resources and Rural Development.
February 22, 1999, amended, reported — Do Pass.

HB 1489—LS 6629/DI 78+



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February 23, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1489

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 14-8-2-27.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 27.5. "Bow", for
3 purposes of ~~IC 14-22-40~~, has the meaning set forth in ~~IC 14-22-40-1~~.
4 **IC 14-22, means any device that is intended to shoot an arrow. The**
5 **term includes a crossbow.**

6 SECTION 2. IC 14-8-2-91.5 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 91.5. "Firearm", for
8 purposes of ~~IC 14-22-40~~, has the meaning set forth in ~~IC 14-22-40-3~~.
9 **IC 14-22, means any weapon that is designed to expel a projectile**
10 **by means of an explosion.**

11 SECTION 3. IC 14-8-2-128 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 128. "Hunt" **has the**
13 **following meaning:**

14 (1) For purposes of IC 14-22, ~~means~~ **except as provided in**
15 **subdivision (2)**, to take a wild animal except by trapping.

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(2) For purposes of IC 14-22-41, the meaning set forth in
IC 14-22-41-3.

SECTION 4. IC 14-22-11-15 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. (a) Each license
and permit issued under this article is issued upon the express
condition, to which the licensee or permittee by acceptance of the
license or permit is considered to agree and consent, that the licensee
or permittee will obey and comply with the following:

(1) All the terms, conditions, and rules:

(A) made by the director under this article; and

(B) incorporated in or attached to the license or permit when
issued.

(2) This article.

(b) A license or permit may be revoked by the director at any time
without refund for any of the following:

(1) Failure to comply with or violation of the terms, conditions,
rules, or restrictions incorporated in or attached to the license or
permit when issued.

(2) Violation of this article.

(c) A person whose license or permit has been revoked by the
director under this article may, by written request to the director, have
a hearing on the revocation. Upon receipt of written request for a
hearing on the revocation, the director shall do the following:

(1) Set a date for the hearing, which may not be more than fifteen
(15) days from the date of receipt of the request.

(2) Give the person requesting the hearing at least five (5) days
notice of the date of the hearing, which shall be held in the office
of the director.

(3) Receive and keep a record of all evidence presented by the
person.

(4) After considering the evidence presented at the hearing,
rescind or affirm the order revoking the license or permit.

(d) Every court having jurisdiction of an offense committed in
violation of an Indiana law for the protection of wildlife may, at the
court's discretion (**except as provided in subdivision (4)**), revoke the
license of the offender for any of the following periods:

(1) Thirty (30) days.

(2) Sixty (60) days.

(3) Ninety (90) days.

(4) One (1) year. **However, the revocation of a license for one
(1) year under IC 14-22-41-10 is mandatory.**

(e) After a revocation, the court shall forward to the division a

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record of the conviction of the person in the court for a violation of the law. At the time of the conviction, the court shall do the following:

- (1) Obtain the license certificate of the defendant.
- (2) Return the license certificate to the division.

SECTION 5. IC 14-22-41 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:

Chapter 41. Hunting While Intoxicated

Sec. 1. As used in this chapter, "chemical test" means an analysis of an individual's:

- (1) blood;
- (2) breath;
- (3) urine; or
- (4) other bodily substance;

for the determination of the presence of alcohol or a controlled substance.

Sec. 2. As used in this chapter, "controlled substance" has the meaning set forth in IC 35-48-1-9.

Sec. 3. As used in this chapter, "hunt" means to take a wild animal with a:

- (1) bow; or
- (2) firearm.

Sec. 4. As used in this chapter, "intoxicated" means under the influence of:

- (1) alcohol;
- (2) a controlled substance;
- (3) any drug (as defined in IC 9-13-2-49.1) other than alcohol or a controlled substance; or
- (4) any combination of alcohol, controlled substances, or drugs;

so that there is an impaired condition of thought and action and the loss of normal control of an individual's faculties to such an extent as to endanger any person.

Sec. 5. As used in this chapter, "law enforcement officer" has the meaning set forth in IC 35-41-1-17.

Sec. 6. As used in this chapter, "prima facie evidence of intoxication" includes evidence that at the time of an alleged violation there was at least ten-hundredths percent (0.10%) of alcohol by weight in grams in:

- (1) one hundred (100) milliliters of the person's blood; or
- (2) two hundred ten (210) liters of the person's breath.

Sec. 7. As used in this chapter, "relevant evidence" includes



evidence that at the time of the alleged violation there was at least five-hundredths percent (0.05%) but less than ten-hundredths percent (0.10%) of alcohol by weight in grams in:

- (1) one hundred (100) milliliters of the person's blood; or
- (2) two hundred ten (210) liters of the person's breath.

Sec. 8. As used in this chapter, "serious bodily injury" has the meaning set forth in IC 35-41-1-25.

Sec. 9. This chapter applies only to a person who is hunting on property where the person is required by IC 14-22-11-1 to have a license.

Sec. 10. (a) Except as provided in subsections (b) and (c), a person who hunts:

(1) with at least ten-hundredths percent (0.10%) of alcohol by weight in grams in:

- (A) one hundred (100) milliliters of the person's blood; or
- (B) two hundred ten (210) liters of the person's breath; or

(2) while intoxicated;

commits hunting while intoxicated, a Class C misdemeanor.

(b) The offense is a Class B misdemeanor if:

- (1) the person has a previous conviction under this chapter; or
- (2) the offense results in serious bodily injury to another person.

(c) The offense is a Class A misdemeanor if the offense results in the death of another person.

Sec. 11. A person who hunts after the person has been ordered under this chapter not to hunt commits a Class A misdemeanor.

Sec. 12. In addition to any criminal penalties imposed for a misdemeanor under this chapter, the court shall order the person to not hunt for at least one (1) year.

Sec. 13. (a) A law enforcement officer who has probable cause to believe that a person has committed an offense under this chapter shall offer the person the opportunity to submit to a chemical test. It is not necessary for the law enforcement officer to offer a chemical test to an unconscious person.

(b) A law enforcement officer may offer a person more than one (1) chemical test under this chapter. However, all tests must be administered within three (3) hours after the officer had probable cause to believe the person violated this chapter.

Sec. 14. (a) If a chemical test results in relevant evidence that the person is intoxicated, the person may be arrested for an offense under this chapter.

(b) If a chemical test results in prima facie evidence that the



1 person is intoxicated, the person shall be arrested for an offense
2 under this chapter.

3 (c) At a proceeding under this chapter, a person's refusal to
4 submit to a chemical test is admissible into evidence.

5 Sec. 15. (a) The provisions of IC 9-30-6-5 concerning the
6 certification and use of chemical breath tests apply to the use of
7 chemical breath tests in a prosecution under this chapter.

8 (b) IC 9-30-6-6 applies to chemical tests performed under this
9 chapter.

10 Sec. 16. The prosecuting attorney of the county in which an
11 alleged violation of this chapter occurs shall represent the state in
12 a proceeding under this chapter.

13 Sec. 17. At a proceeding concerning an offense under this
14 chapter, evidence of the amount by weight of alcohol that was in
15 the blood or breath of the person charged with the offense at the
16 time of the alleged violation, as shown by an analysis of the
17 person's:

- 18 (1) breath;
- 19 (2) blood;
- 20 (3) urine; or
- 21 (4) other bodily substance;

22 is admissible.

23 SECTION 6. THE FOLLOWING ARE REPEALED [EFFECTIVE
24 JULY 1, 1999]: IC 14-22-40-1; IC 14-22-40-3.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred House Bill 1489, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 14-8-2-27.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 27.5. "Bow", for purposes of ~~IC 14-22-40~~, has the meaning set forth in ~~IC 14-22-40-1~~. **IC 14-22, means any device that is intended to shoot an arrow. The term includes a crossbow.**

SECTION 2. IC 14-8-2-91.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 91.5. "Firearm", for purposes of ~~IC 14-22-40~~, has the meaning set forth in ~~IC 14-22-40-3~~. **IC 14-22, means any weapon that is designed to expel a projectile by means of an explosion.**

SECTION 3. IC 14-8-2-128 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 128. "Hunt" **has the following meaning:**

(1) For purposes of IC 14-22, ~~means~~ **except as provided in subdivision (2)**, to take a wild animal except by trapping.

(2) **For purposes of IC 14-22-41, the meaning set forth in IC 14-22-41-3.**

Page 2, line 18, delete "subdivisions" and insert "**subdivision**".

Page 2, line 18, delete "and (5)".

Page 2, line 24, delete "14-22-41-10(a)" and insert "**14-22-41-10**".

Page 2, delete lines 25 through 27.

Page 3, between lines 4 and 5, begin a new paragraph and insert:

"Sec. 3. As used in this chapter, "hunt" means to take a wild animal with a:

(1) **bow; or**

(2) **firearm.**".

Page 3, line 5, delete "**3**" and insert "**4**".

Page 3, line 16, delete "**4**" and insert "**5**".

Page 3, line 18, delete "**5**" and insert "**6**".

Page 3, line 24, delete "**6**" and insert "**7**".

Page 3, line 30, delete "**7**" and insert "**8**".

Page 3, between lines 31 and 32, begin a new paragraph and insert:

"Sec. 9. This chapter applies only to a person who is hunting on property where the person is required by IC 14-22-11-1 to have a

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license."

Page 3, line 32, delete "8" and insert "10".

Page 3, line 40, delete "Class D felony" and insert "**Class B misdemeanor**".

Page 4, line 2, delete "Class C felony" and insert "**Class A misdemeanor**".

Page 4, line 4, delete "9" and insert "11".

Page 4, line 6, delete "10" and insert "12".

Page 4, line 6, delete "(a)".

Page 4, delete lines 9 through 16.

Page 4, line 17, delete "12" and insert "13".

Page 4, delete lines 26 through 28.

Page 4, line 29, delete "13" and insert "14".

Page 4, delete lines 35 through 36.

Page 4, line 37, delete "(d)" and insert "(c)".

Page 4, line 39, delete "14" and insert "15".

Page 5, delete lines 2 through 5.

Page 5, after line 18, begin a new paragraph and insert:

"SECTION 6. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 1999]: IC 14-22-40-1; IC 14-22-40-3."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1489 as introduced.)

LYTLE, Chair

Committee Vote: yeas 13, nays 0.

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